

A.Nos.1912 & 1913 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2026

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THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A Nos. 1912 & 1913 of 2026

IN

CS NO. 1196 OF 2009

N.Rajaram

S/o.Neelamegam

No.6, Nandavanam, Bodinayakanur, Theni District.

..Applicant(s) in both

Vs

1. T.R.Rathineswaran
S/o.R.K.Ramachandra Servai, No.1, Citadal
Buildings Rananjam Apartment, 2g Ii Floor,
Arumbakkam, Chennai-106.
2. H.Vimala
D/o.Late.Hariharan, No.1, Citadel Building
Rananjam Apartment, 2g , Ii Floor,
Arumbakkam, Chennai-106.
3. N.Rajam
W/o.Rajasekaran, No.1, Citadel Buildings,
Rananjam Apartment, 2g, Ii Floors,
Arumbakkam, Chennai-106.
4. C.T.C.Nachiappa Chettiar
S/o.Chockkalingam Chettiyar, Kottaiyur Village,
Karaikudi Taluk, Sivagangai District
5. Dhanalakshmi Impex PvtLtd
Rep.By Its Managing Director H.Vimala
D/o.Late Hariharan, No.366-e, 36th St,
T.V.S.Nagar,
Anna Nagar West Extension, Ch-101.



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(defendants 4 And 5 Impleaded As Per Order Dt.
02.02.2023 In Appl.No.300 Of 2019)

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..Respondent(s) in both

COMMON PRAYER: To reopen the evidence in C.S.No.1196 of 2009 to issue summons by recalling the Defendants 1 and 2 for cross examination in suit and to permit to recall the defendants 1 & 2 for cross examination in suit in C.S. No. 1196 of 2009.

For Applicant(s): Ms.S.Aiyshwarya for M/S.Sarvabauman
Associates

For Respondent(s): Mr.G.Krishnakumar

ORDER

Heard.

2. These applications have been filed by the plaintiff in the suit. A.No.1912 of 2026 is to reopen the evidence in C.S.No.1196 of 2009, and A.No.1913 of 2026 is to recall defendants 1 and 2 for cross-examination. In the common affidavit, the plaintiff states that he has filed the suit for specific performance on the basis of the sale agreement dated 05.04.2007; that on his side he had examined himself and other witnesses; that after closure of his evidence, DW1 was examined, but

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according to him was not cross-examined in full; that thereafter the forensic expert was examined; that defendants got DW1 recalled to mark the judgment and decree dated 28.07.2025 in O.S.No.5744 of 2007 though the appeal in A.S.No.283 of 2025 is pending; and that further clarification is required regarding the alleged fraud, impersonation, illegal signatures and the role of the defendants. He also states that the 4th defendant has been hidden and his whereabouts are not known, and therefore unless the evidence is reopened and defendants 1 and 2 are recalled, the true facts will not come out.

3. The 1st respondent/1st defendant has filed a common counter affidavit for respondents 1 to 3 and 5 opposing both applications. The stand in the counter is that the alleged sale agreement dated 05.04.2007 is bogus and fabricated; that in support of that defence the handwriting expert was examined and Ex.D1 had already been marked; that under the guise of cross-examining DW2 the plaintiff prolonged the matter for several years and in fact cross-examined DW2 only in the year 2025; that in the earlier suit in O.S.No.5744 of 2007 filed by the plaintiff on the same sale agreement, the suit was dismissed after full trial on 28.07.2025; that thereafter defendants got DW1 recalled and marked the judgment and decree in that suit as Ex.D2, and both DW1 and DW2 were extensively cross-examined by



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the plaintiff; and that there is absolutely no material to show why DW1 and DW2 should once again be recalled. The further stand in the counter is that the plaintiff must prove his own case on the strength of his pleadings, documents and witnesses, that the 4th defendant is already ex parte, and that these applications have been filed only to drag on the proceedings when the suit is already posted for arguments.

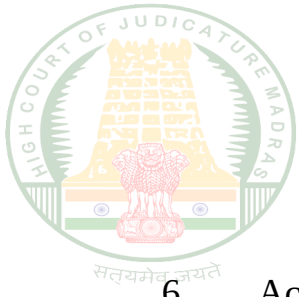
4. This Court has carefully considered the rival submissions and the record. The suit is of the year 2009. Issues were framed on 10.04.2017. The records show that repeated opportunities had already been granted during the course of trial. Orders were passed for securing the presence of the forensic expert by re-issuing subpoena and by granting fresh time. On 02.09.2025, this Court specifically recorded that the plaintiff had not utilized the best opportunity available to cross-examine DW2 and observed that, if he intended to do so, he had to take summons. Even thereafter, on 23.09.2025, one further opportunity was granted and the matter was again sent before the learned Additional Master for further evidence. The record then shows that DW2 was in fact cross-examined on 30.10.2025. It also shows that DW1 was further examined on 27.01.2026, Ex.D2 was marked, and DW1 was cross-examined on the side of the plaintiff. Thereafter, the defendants'



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side evidence was completed and the records were directed to be placed before this Court.

5. In the light of the above record, this Court is unable to accept the plaintiff's contention that further reopening and recall are necessary. The plaintiff has already been given sufficient and repeated opportunities. DW2 has already been cross-examined. DW1 has also been further cross-examined after recall. The affidavit filed in support of these applications does not disclose any specific new fact which arose thereafter, nor does it state with clarity what precise matter remains to be put to defendants 1 and 2 which could not have been put earlier. A general plea that some more clarification is necessary, or that the truth has to be brought out, is not enough to reopen a long-pending trial after the evidence has been completed. Equally, the fact that the 4th defendant is ex parte cannot by itself furnish a ground to reopen the evidence and repeatedly recall the witnesses already examined. This Court finds force in the objection of the respondents that the applications are devoid of sufficient basis and are liable only to prolong the suit at the stage of arguments.



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6. Accordingly, this Court finds no merit in either of the applications.

A.No.1912 of 2026 and A.No.1913 of 2026 are dismissed. No costs.

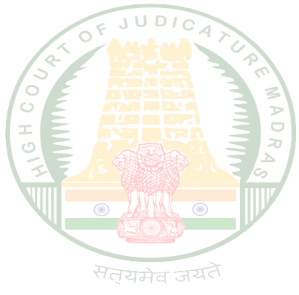
22-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

nvi/AY



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DR.A.D.MARIA CLETE, J.

AY

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